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NOTICE OF ALLOWANCE AND FEE(S) DUE

45809

7590

06/11/2009

SHOOK, HARDY & BACON L.L.P.
(c/o MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

EXAMINER

MADAMBA, GLENFORD J

ART UNIT

PAPER NUMBER

2451

DATE MAILED: 06/11/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,675	12/31/2003	Randall J. Macbeth	MECP.110230	2766

TITLE OF INVENTION: SYSTEM AND METHOD FOR AUTOMATIC RECOVERY FROM FAULT CONDITIONS IN NETWORKED COMPUTER SERVICES

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	09/11/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

45809 7590 06/11/2009

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 (c/o MICROSOFT CORPORATION)
 INTELLECTUAL PROPERTY DEPARTMENT
 2555 GRAND BOULEVARD
 KANSAS CITY, MO 64108-2613

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/748,675 12/31/2003

Randall J. Macbeth

MECP 110230

2766

TITLE OF INVENTION: SYSTEM AND METHOD FOR AUTOMATIC RECOVERY FROM FAULT CONDITIONS IN NETWORKED COMPUTER SERVICES

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nonprovisional	NO	\$1510	\$300	\$0	\$1810	09/11/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
MADAMBA, GLENFORD J	2451	709-225000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
 (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

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This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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45809	7590	06/11/2009	EXAMINER	
SHOOK, HARDY & BACON L.L.P. (c/o MICROSOFT CORPORATION) INTELLECTUAL PROPERTY DEPARTMENT 2555 GRAND BOULEVARD KANSAS CITY, MO 64108-2613			MADAMBA, GLENFORD J	
			ART UNIT	PAPER NUMBER
			2451	
DATE MAILED: 06/11/2009				

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 770 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 770 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

10/748,675

Applicant(s)

MACBETH ET AL.

Examiner

Glenford Madamba

Art Unit

2451

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 19 May 2009.
2. ☒ The allowed claim(s) is/are 1-3,5,6,8-15,17,18,20-27,29,30 and 32-37.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/John Follansbee/
Supervisory Patent Examiner, Art Unit 2451

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Applicant's Representative (Kristin D. Smith) on 6/5/2009.

3. The application has been amended as follows:

In the Claims:

Please AMEND claim 1 as follows:

Claim 1

1. (Currently Amended) A system for monitoring a networked computer service for fault recovery, the networked computer service comprising a set of features, the system comprising:
an input interface to receive network status data from a network monitor monitoring a computer services network, wherein network status data comprises at least one of page latency data, processor utilization data, connection data and storage data;

a control engine in a server device, the control engine communicating with the input interface to receive the network status data and automatically generate control commands to dynamically adjust the set of features based on a fault condition detected in the network status data, the fault condition associated with one or more features within the set of features, wherein the set of features normally provide a plurality of panels of information for presentation on one or more web pages provided by the networked computer service to one or more users, each feature corresponding to one or more of the plurality of panels of information, and wherein the fault condition comprises undesired performance degradation of the one or more features; and

an output interface, the output interface communicating with the control engine and the computer services network, to transmit the control commands to the computer services network to dynamically adjust the set of features in response to the detection of the fault condition by deactivating the one or more features associated with the fault condition while maintaining active features in the set of features to continue to provide the one or more users with a portion of the networked computer service, the portion of the networked computer service comprising the active features while each of the one or more panels associated with the one or more features associated with the fault condition are at least temporarily removed from the networked computer service, such that the one or more web pages only include panels of information associated with the active features.

Please AMEND claim 13 as follows:

Claim 13

13. (Currently Amended) A method for monitoring a networked computer service for fault recovery, the networked computer service comprising a set of features, the method comprising:

receiving network status data from a network monitor monitoring a computer services network, wherein network status data comprises one of page latency data, processor utilization data, connection data and storage data;

automatically generating, by a control engine of a server device, control commands to deactivate one or more features based on a fault condition associated with the one or more features in the network status data while maintaining active features in the set of features to continue to provide a portion of the networked computer service, wherein the set of features normally provide a plurality of panels of information for presentation on one or more web pages provided by the networked computer service to one or more users, each feature corresponding to one or more of the plurality of panels of information, and wherein the fault condition comprises unintentional performance degradation in the presentation of one or more features; and

communicating the control commands to the computer services network to respond to the fault condition by deactivating the one or more features associated with the fault condition while maintaining the active features in the set of features, thereby allowing the one or more users accessing the networked computer service to continue to receive a portion of the networked

computer service, the portion of the networked computer service comprising only the active features while the one or more features associated with the fault condition are at least temporarily removed from the networked computer service, such that the web pages only include panels of information associated with the active features.

Please AMEND claim 25 as follows:

Claim 25

25. (Currently Amended) A networked computer service comprising a set of features, the networked computer service being monitored for fault management according to a method of:

receiving network status data from a network monitor monitoring a computer services network, wherein network status data comprises at least one of page latency data, processor utilization data, connection data and storage data;

automatically generating, by a control engine of a server device, control commands to remove one or more panels associated with at least one feature based on a fault condition associated with the at least one feature in the network status data while maintaining active features in the set of features to continue to provide a portion of the networked computer service, wherein the set of features normally provide a plurality of panels of information for presentation on one or more web pages provided by the networked computer service to one or more users, each feature corresponding to one or more of the plurality of panels of information, and wherein the fault condition comprises suspension of one or more features; and

communicating the control commands to the computer services network to respond to the fault condition by removing the one or more panels associated with the at least one feature based on the fault condition while maintaining the active features in the set of features, thereby allowing the one or more users accessing the networked computer service to continue to receive a portion of the networked computer service, the portion of the networked computer service comprising only the active features while the one or more features associated with the fault condition are at least temporarily removed from the networked computer service, such that the one or more web pages only include panels of information from only active features while panels of information from deactivated features are omitted from the one or more web pages.

Allowable Subject Matter

4. Original Claims 1-3, 5-6, 8-15, 17-18, 20-27, 29-30 and 32-37 respectively are renumbered 1-31 respectively. Original Claims 4, 7, 16, 19, 28 and 31 are cancelled.
5. The following is an examiner's statement of reasons for allowance:

The Office has deemed Applicant's latest set of claim amendments and associated remarks persuasive to overcome the rejection under the prior art references with respect to the following amended claim features:

A system for monitoring a networked computer service for fault recovery, the networked computer service comprising a set of features, the system comprising:

an input interface to receive network status data from a network monitor monitoring a computer services network, wherein network status data comprises at least one of page latency data, processor utilization data, connection data and storage data;

a control engine in a server device, the control engine communicating with the input interface to receive the network status data and automatically generate control commands to dynamically adjust the set of features based on a fault condition detected in the network status data, the fault condition associated with one or more features within the set of features, wherein the set of features normally provide a plurality of panels of information for presentation on one or more web pages provided by the networked computer service to one or more users, each feature corresponding to one or more of the plurality of panels of information, and wherein the fault condition comprises undesired performance degradation of the one or more features; and

an output interface, the output interface communicating with the control engine and the computer services network, to transmit the control commands to the computer services network to dynamically adjust the set of features in response to the detection of the fault condition by deactivating the one or more features associated with the fault condition while maintaining active features in the set of features to continue to provide the one or more users with a portion of the networked computer service, the portion of the networked computer service comprising the active features while each of the one or more panels associated with the one or more

features associated with the fault condition are at least temporarily removed from the networked computer service, such that the one or more web pages only include panels of information associated with the active features.

Specifically, Applicants argument that none of the cited art teaches or suggests “deactivating one or more features based on a fault condition associated with the one or more features in the network status data while maintaining active features in the set of features to continue to provide a portion of the networked computer service, wherein the set of features normally provide a plurality of panels of information for presentation on one or more web pages provided by the networked computer service to one or more users, each feature corresponding to one or more of the plurality of panels of information, and wherein the fault condition comprises unintentional performance degradation in the presentation of one or more features, as recited in claim 1, is found to be persuasive. Applicant’s additional argument that none of the cited art teaches or suggests that the ‘network status data’ received from a network monitor monitoring a computer services network, wherein network status data comprises one of page latency data, processor utilization data, connection data and storage data, as recited in claim 1, is also found to be persuasive.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenford Madamba whose telephone number is 571-272- 7989. The examiner can normally be reached on Monday-Friday 7:00AM-4: 30PM, first Fridays OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John Follansbee/

Supervisory Patent Examiner, Art Unit 2451